IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL NO. 48 OF 2006
IN
SUIT NO. 974 OF 1983

Gagan Newandran Sainani.] .. Appellant (Ori.Pltff.)

Versus

1. New India Ass. Co. Ltd. & Anr.] .. Respondents

Mr. N.K. Mudnaney for the appellant.

CORAM: R.M. LODHA &
ANOOP V. MOHTA, JJ.

DATED: 03RD FEBRUARY, 2006

P.C. :

. Heard Mr. N.K. Mudnaney, the learned counsel for the appellant.

2. The learned trial Judge cannot be said to have committed error in exercise of his judicial discretion in condoning the delay in filing the Written Statement. The impugned order advances the cause of justice and the inconvenience caused to the appellant has been sought to be compensated by award of compensatory costs.

3. We accordingly do not interfere with the order

insofar as condonation of delay in filing the Written Statement is concerned. However, we direct that the entire amount of costs of Rs.5,000/- shall be paid to plaintiff-appellant. If the cost of Rs.2,500/-, as per the order of the learned trial Judge, has been deposited with the Maharashtra State Legal Services Authority, we direct that upon an application being made by the plaintiff, the Maharashtra State Legal Services Authority shall return the cost of Rs.2,500/- to the plaintiff-appellant.

4. Appeal is disposed of accordingly.

Sd/-
[R.M. LODHA, J.]

Sd/-
[ANOOP V. MOHTA, J.]

[srpasha@hc]